

COMMONWEALTH OF VIRGINIA
PRECEDENT DECISION MANUAL
REVISED (1-97)

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PREFACE:

In making their determinations and decisions, unemployment compensation claims adjudicators at all levels are guided by (1) the Virginia Unemployment Compensation Act, (2) the Rules and Regulations Affecting Unemployment Compensation issued by the [Virginia Employment Commission](#), and (3) the Field Operations Manual or special memoranda issued by the Commission.

Within the above guidelines, claims adjudicators exercise considerable discretion in deciding cases. The primary purpose of this Precedent Decision Manual is to provide a means to assist in the application of this discretion so that cases with similar facts will be similarly decided. The secondary purpose of the Manual is to serve as a training tool to improve our efficiency in the rapid resolution of recurring or similar cases.

Careful use of this Manual will ensure consistency in writing reasoned opinions. Consistency is a special virtue because (1) equality or uniformity of treatment is a major ingredient of justice and (2) the process of striving for consistency tends to prevent arbitrariness in our decisions. Along with consistency goes the system of building a body of precedents so that each decision is related to prior decisions.

To ensure that the selection of new precedent decisions is a continuing process and that unemployment insurance (UI) staff members may be involved in the selection, written recommendations for additions to and deletions from the Manual may be made to the Director, Administrative Law Division, Virginia Employment Commission, P. O. Box 1358, Richmond, Virginia 23211. Some guidelines in selecting precedent decisions are as follows:

1. Findings of Fact on which a decision is based must be stated in the precedent. (Appeals Examiner's Findings of Fact adopted by the Commission can be added to a precedent to make it a complete decision.)
2. Opinions and conclusions of law must be supported by stated facts.
3. Selected decisions must have in the opinion clearly and concisely stated reasoning as to why the facts support the conclusion.
4. Special consideration will be given to leading cases, cases involving unusual points of law, and all cases ruled upon by the Courts. Published decisions issued by the Virginia Court of Appeals will automatically become a part of the Precedent Decision Manual.

Decisions will be selected by majority vote of a Technical Review Committee appointed by the Director, Administrative Law Division.

These precedent decisions will be accessible to and open for review by all parties affected by them, as well as, the general public. The Precedent Decision Manual is designed to be used as follows:

1. As a guide to be followed when rendering decisions.

2. To explain to an interested party prior decisions involving similar issues.

3. As a research tool for advocates.

The Manual is not to be used as a substitute for the Virginia Unemployment Compensation Act or for the Rules and Regulations of the Commission. Through its use, uniformity of decisions should be accomplished.

The Manual is comprised of the following:

1. Table of Contents -- Outlines by code numbers of the seven (7) divisions of sections devoted to decisions.

2. Seven (7) divisions of sections (each preceded by an identifying tab divider; i.e., "Able and Available") as follows:

A. Able and Available (AA) ^

B. Labor Dispute (LD)

C. Miscellaneous (MS)

D. Misconduct (MT)

E. Procedure (PR)

F. Suitable Work (SW)

G. Total and Partial Unemployment (TP)

H. Voluntary Leaving (VL)

3. Headnote Sheets -- Headnotes are brief summaries of the legal rules or significant facts in the cases. They are designed to be used as a research tool for the convenience of the reader. Each division (i.e., "Able and Available") is sub-divided into sections (i.e., 150 -- Distance to Work), and each section divided into types of cases (i.e., 150.2 -- Transportation and Travel). A code number is assigned to each section and a decimal point and number are added to indicate each type of case within the sections. Similar issues may be found in different divisions, and if so, the code numbers remain the same (i.e., 150.2 -- Transportation and Travel -- is also found under divisions Able and Available, Suitable Work and Voluntary Leaving. Code number cross references will be used to set forth different issues and principles, as required.

Each decision for insertion in the Manual will be coded according to the Table of Contents. When received, insert in the Manual under the proper division and code. Cross references should also be filed according to division and code numbers. Decisions must be retained in the Manual unless instructions are received authorizing removal. Decisions will consist of "precedent," "first time," and "leading cases" and are defined thus:

1. Precedent Decisions — decisions of a court or the Commission which establishes a rule of law for a particular type case and should be thereafter referred to in deciding similar cases.

2. First-Time Decisions — decisions of the Appeals Examiner on issues and principles on which there have been no precedent decisions.

3. Leading Cases — cases frequently cited by the Commission and are looked upon as having settled or determined the law upon all points involved in such cases and as guides for subsequent decisions.

Example of Locating Decisions in the Manual

If "suitable work" is involved, turn to the Table of Contents and locate the division. Suitable Work.

If the issue is "refusal of work because of distance to work," you will find Section 150, Distance to

Work.

If the specific issue is "transportation and travel," it will be indicated as 150.2. Turn to the division. Suitable Work, and Code 150.2, the precedent or first-time decision with reference to this issue will be found. The adjudicator should read the decision or decisions filed therein and be guided thereby in rendering his/her decision, if appropriate.

I sincerely hope this Manual will help to educate professional adjudicators, guide interested parties and their representatives, and inform students and the general public of case law in Virginia affecting claims for unemployment compensation.